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Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Interconnection Between Local Exchange and Commercial Mobile Service  
Providers  
CC Docket No. 95-185

Dear Secretary:

Enclosed please find an original and four copies of the Comments of the Illinois Commerce Commission in the above-captioned Docket. We would appreciate your acknowledging receipt of this filing by returning a duplicate time-stamped copy of this letter in the enclosed self-addressed stamped envelope.

Thank you for your attention to this matter.

Very truly yours,

Harold Stoller  
Special Assistant Attorney General

HS

Enclosures

cc: Janice Myles, Common Carrier Bureau  
International Transcript Services, Inc.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
Interconnection Between Local )  
Exchange and Commercial Mobile )  
Radio Service Providers )

CC Docket No. 95-185

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REPLY COMMENTS OF  
THE ILLINOIS COMMERCE COMMISSION

The Illinois Commerce Commission (ICC) hereby submits its reply comments pursuant to the Federal Communications Commission's (FCC's) Notice of Proposed Rulemaking (NPRM) regarding the establishment of interconnection arrangements between local exchange carriers (LECs) and Commercial Mobile Radio Service (CMRS) providers. The ICC also responds to the Supplemental Notice of Proposed Rulemaking seeking comment on the jurisdictional impact of the federal Telecommunications Act of 1996 (the 1996 Act). The due date for reply comments was extended to March 25, 1996.

The ICC supports the FCC's goal to maximize the benefits of telecommunications by policies that are intended to create or replicate market-based incentives and prices for both suppliers and consumers. The ICC also supports the stated goal to ensure and advance universal basic telephone service, and agrees that competition is an appropriate means to achieve these goals.<sup>1</sup> However, a mandated nationwide bill-and-keep approach for LEC-CMRS interconnection pricing could provide inaccurate incentives and prices, potentially harm universal service, and skew

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<sup>1</sup>NPRM at 4-5.

competition, counter to the stated goals. As reaffirmed by the 1996 Act, the pricing of interconnection arrangements should be left to the State jurisdictions.

As the FCC requested, the headings in these Reply Comments are cross-referenced to the itemization of issues in footnote 171 of the NPRM.

I. Compensation for Interconnected Traffic between LECs and CMRS Providers' Networks

A. Existing Compensation Arrangements (Item II.A.1)

In response to the FCC's request, this section summarizes existing interconnection and access arrangements between LECs and CMRS providers in Illinois. The arrangements have generally been negotiated, and a variety of arrangements exists. Ameritech Illinois and Illinois Consolidated Telephone Company (ICTC) tariff their arrangements. GTE North and Central Telephone Company (Centel) have contracts with CMRS providers that are not tarified.

Ameritech Illinois, ICTC, GTE North, and Centel provide tandem connections through which cellular traffic is delivered to or from wireline customers of the smaller independent LECs. Compensation is paid to the subtending LECs and the end office LECs on a contractual basis.

For long distance calls to cellular customers originating from wireline customers, the cellular companies in one LATA<sup>2</sup> have negotiated "reverse billing" arrangements, in which the LECs do not bill toll charges to the originating wireline customer. Instead, the LECs receive compensation for originating calls through access charges from the designated Primary Toll Carrier. In the other LATAs,

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<sup>2</sup>LATAs are called Market Service Areas (MSAs) in Illinois.

originating wireline customers pay any applicable toll charges to the end office LEC. For terminating traffic to a LEC, the cellular companies compensate the tandem company on a contractual basis and the tandem company compensates the end office LEC based on access rates.

As allowed by State law (220 ILCS 5/13-203(c)), the ICC has exempted cellular carriers from active regulatory oversight, including tariff requirements. However, the ICC is aware that the cellular companies do not charge LECs or interexchange carriers (IXCs) access charges or other charges for the termination of traffic on their networks. Ameritech Illinois now offers a Calling Party Pays service to CMRS providers, by which originating wireline customers are billed (if they choose to complete the call after a recorded announcement informs them of the charges) for call completion. Under this service, Ameritech Illinois bills the customer and remits most of the resulting revenue to the CMRS provider.

**B. Pricing Principles (Items II.A.2 and II.A.3)**

The NPRM states the following long-term pricing policy:

As a matter of long-term policy, functionally equivalent services--including services related to network interconnection--should be available to all classes of consumers at the same prices, unless there are cost differences or policy considerations that justify different rates.<sup>3</sup>

The NPRM then goes on to conclude tentatively that a "bill and keep" approach should be applied for LEC-to-CMRS and CMRS-to-CMRS interconnections, at least on an interim basis, with respect to local switching facilities and connections to end users. The FCC bases this conclusion on the view that CMRS development should be

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<sup>3</sup>NPRM at 4.

encouraged.<sup>4</sup>

The ICC fully supports the long-term pricing policy stated in the NPRM, which is generally consistent with ICC policies regarding long-run interconnection and access arrangements adopted in consideration of Ameritech Illinois' "Customers First" proposal:

[U]ltimately, all carriers interconnecting with Illinois Bell should be offered service from the same tariff and under the same physical interconnection agreements.<sup>5</sup>

and:

Ultimately, the same rates should apply for termination regardless of the type of originating carrier, and we formally establish that goal here.<sup>6</sup>

The ICC recognizes that different interconnection and access arrangements are currently in effect in Illinois for different types of carriers and traffic. However, the ICC has determined that steps should be taken to begin to phase out existing discrepancies in interconnection arrangements:

Current contractual agreements are more appropriately converted to tariffed arrangements. For this reason we agree that the AEOIS [Ameritech End Office Integration Service] tariff should be modified...and serve as a basis for a Uniform Interconnection Tariff. Designations on the tariff which limit its application to "AECs" [Alternate Exchange Carriers] should, therefore, be removed and replaced with a suitable term such as "integrating carrier."

[W]e shall direct Illinois Bell to modify its AEOIS tariff as directed above and to begin integrating existing interconnection arrangements into a uniform tariff.<sup>7</sup>

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<sup>4</sup>NPRM at 3.

<sup>5</sup>Order, Illinois Bell Telephone Company Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois, Dockets 94-0096 et al., Consol. (Customers First Order), April 7, 1995, at 79.

<sup>6</sup>Customers First Order at 98.

<sup>7</sup>Customers First Order at 79-80.

The issue of whether Illinois Bell's tariff filed in response to the Customers First Order is in full compliance with that Order is currently being investigated in Docket 95-0296, and the issue of restructuring and conforming the various types of access arrangements is being examined in Docket 94-0047. Because of these on-going dockets, the ICC will not comment on the desirability of the bill-and-keep methodology as a general pricing principle.

However, the ICC is concerned that adoption of an interim bill-and-keep methodology applicable only to CMRS interconnections would subvert and needlessly delay implementation of the long-term policy that services be available on a nondiscriminatory basis. The FCC should not create new policies that provide special treatment to CMRS interconnection arrangements. Such a step would be counter to the general direction that the ICC is taking to make interconnection arrangements more consistent. It would also be inconsistent with the requirement in Section 251(c)(2)(D) of the Communications Act of 1934, as modified by the 1996 Act, that incumbent LECs provide interconnection on a nondiscriminatory basis to all telecommunications carriers.<sup>8</sup> Further, the FCC has cited no evidence to support a view that CMRS providers may provide more viable competition to incumbent LECs than potential wireline competitors and, thus, may warrant preferential treatment.

The ICC also shares concerns raised by other parties that bill-and-keep

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<sup>8</sup>Indeed, Section 251(c)(2)(D) appears to require that any interconnection arrangements provided to CMRS providers be made available to all other telecommunications carriers on a nondiscriminatory basis.

arrangements may result in uncompensated costs.<sup>9</sup> Significant revenue shifts from existing interconnection arrangements could put upward pressure on other rates, to the possible detriment of non-CMRS customers. Consistent with the 1996 Act, the States properly have the responsibility of setting pricing policies based on local conditions to ensure that important public policy goals such as universal service are maintained.

## **II. Jurisdictional Issues (Item II.B.2)**

The FCC seeks comments on whether it should adopt its tentative conclusions regarding bill-and-keep arrangements as a non-binding model for state regulators and/or negotiating parties, or whether the FCC should mandate either broad, general parameters or specific, detailed prescriptions.<sup>10</sup>

The FCC notes that it has in the past "asserted plenary jurisdiction over the physical plant used in the interconnection of CMRS carriers, but...declined to preempt state regulation over the rates for intrastate interconnection, unless the charge for the intrastate component of interconnection was so high that the price effectively precluded interconnection."<sup>11</sup> The FCC asserts, however, that preemption may well

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<sup>9</sup>Initial Comments of the National Association of Regulatory Utility Commissioners (NARUC Comments), CC Docket No. 95-185, March 4, 1996, at 7.

Comments of the New York State Department of Public Service, CC Docket No. 95-185, March 1, 1996, at 5.

Comments of the Illinois Telephone Association, CC Docket No. 95-185, March 1, 1996, at 2.

<sup>10</sup>NPRM at 13-14.

<sup>11</sup>NPRM at 11, citing CMRS Second Report, 9 FCC Rcd at 1498.

be warranted in this instance on the basis of inseverability, in light of the strong federal policy underlying Section 332 of the Communications Act favoring a nationwide wireless network. The FCC seeks comment on the inseverability of interconnection rate regulation, stating that much LEC-CMRS traffic may be interstate because of roaming and service areas crossing state boundaries.<sup>12</sup>

As noted by the National Association of Regulatory Utility Commissioners (NARUC), nothing has changed since the FCC's earlier acknowledgment of severability.<sup>13</sup> Further, as NARUC points out, the suggestion that there is a need to preempt is premature.<sup>14</sup> The NPRM does not cite any example of State interconnection policy inhibiting either the growth or deployment of wireless facilities, because the growth of cellular has been phenomenal. In fact, cellular subscriber numbers have ballooned from just 91,600 at the end of 1984 to more than 28 million by June 1995, with an annual growth rate of about 45 percent.<sup>15</sup>

The ICC does not object to the FCC providing non-binding pricing models for use by State regulators or negotiating parties. However, attempts to impose

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<sup>12</sup>NPRM at 54.

<sup>13</sup>NARUC Comments at 8.

<sup>14</sup>NARUC Comments at 9. It was recently acknowledged in a statement of Regina Markey Keeney, Chief, Wireless Telecommunications Bureau, FCC, before the Oversight and Investigations Subcommittee of the U.S. House Commerce Committee, October 12, 1995, that "(t)he wireless telecommunications marketplace has been one of the great economic success stories of our times... From 1983 through 1994 cellular subscriber growth has averaged about 50 percent per year. Double digit growth is expected through the end of the century.

<sup>15</sup>Cellular Telecommunications Industry Association, Mid-Year Data Survey released September 21, 1995.



mandatory pricing requirements, either in the form of broad parameters or more specific prescriptions, would be counter to clear language in the Communications Act leaving jurisdiction over interconnection rates with the States. As NARUC and a number of other entities have commented, Sections 252(c) and 252(f) of the Communications Act of 1934, as amended by the 1996 Act, confirm the reach of State jurisdiction over the pricing of LEC interconnection arrangements with CMRS providers. Section 252(a)(1) gives States the authority to approve interconnection agreements between incumbent LECs and all telecommunications providers, including CMRS providers, subject to FCC intervention only if States fail to rule on the agreements within specified periods. State commissions have the responsibility of determining whether arbitrated interconnection agreements or general interconnection offerings comply with the general pricing standards in Section 252(d). The ICC fully intends to fulfill its responsibilities in this regard. The pricing standards in Section 252(d) allow bill-and-keep arrangements, but make clear that the States may find other types of pricing arrangements reasonable. It would be contrary to these statutory changes, enacted after the NPRM was issued, for the FCC to promulgate rules mandating specific pricing requirements for the States to follow.

As the Public Utilities Commission of Ohio points out, it may make sense for the FCC to address CMRS-LEC interconnection in the same docket developing policies for other types of interconnection, as provided by the 1996 Act.<sup>16</sup> Such a step could facilitate the development of consistent, non-discriminatory interconnection

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<sup>16</sup>Initial Comments of the Public Utilities Commission of Ohio, CC Docket No. 95-185, at 9.


policies. However, such consideration should not incorporate mandatory pricing standards, which would improperly encroach on State responsibilities.

### III. Conclusion

For the reasons discussed in these Reply Comments, the ICC respectfully submits that the FCC should not adopt mandatory pricing standards for LEC-CMRS interconnections.

Respectfully submitted,

ILLINOIS COMMERCE COMMISSION

By: 

Harold Stoller  
Special Assistant Attorney General  
527 East Capitol Avenue  
P.O. Box 19280  
Springfield, IL 62794-9280  
(217) 785-5278

Counsel for the  
Illinois Commerce Commission

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